

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

News Release

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**Department of Labor Director Urges Senate to Take Action on Key
Workers' Compensation Legislation**

HONOLULU – Unless the legislature acts swiftly, Hawaii will retain its dubious distinction of subjecting employers to workers' compensation claims for mental stress caused by routine personnel decisions. The Lingle Administration introduced two bills to correct this situation, but the legislature never scheduled those bills for hearings. Last week, legislators failed to meet a legislative deadline for a similar bill on the issue, effectively killing it for this session.

Noting the urgent need for corrective action by the legislature, Department of Labor and Industrial Relations Director Nelson Befitel said, "I strongly urge the legislature to address this problem of stress-related claims and to prevent further abuses of the workers' compensation law."

Befitel has requested that Senator Brian Kanno, Chair of the Senate Committee on Labor, insert relevant language from House Bill 387, H.D.1, into House Bill 884, and hold a public hearing on the matter. Without such action, it appears that efforts to limit workers' compensation claims for mental stress injuries resulting from the employer's lawful personnel actions will fail. As a result, the threat of such claims will continue to have a chilling effect on all employers in Hawaii.

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The state's ability to contain rising workers' compensation costs is at state, as well as ongoing efforts to ensure a business-friendly environment in which companies seek to do business. The proposed bill excludes mental injuries resulting from: counseling, work evaluation or criticism, transfer, layoff, demotion, suspension, termination, retirement, or other action associated with personnel administration.

Need for this legislation was highlighted by the Hawaii State Supreme Court in Davenport v. City and County of Honolulu, Honolulu Fire Department, 100 Hawaii 297, 59 P.3d 932, in which a workers compensation claim was based in part on stress suffered when a worker failed to get a promotion that he was seeking. The law in question was amended in 1998, but that change was limited to stress claims relating to personnel actions involving discipline.

"Legislative action is needed, now, to ensure that employers who exercise lawful personnel management actions, not be subjected to stress-related claims for workers' compensation benefits," said Befitel.

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